

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

RAYMOND DUARTE,

Plaintiff,

v.

No. CIV 11-0524 MV/WDS

WARDEN MARTIN,  
STIU K-9 OFFICER ARGUELLO,

Defendants.

**ORDER FOR MARTINEZ REPORT**

THIS MATTER comes before the Court *sua sponte*. Plaintiff, who is incarcerated and proceeding *pro se*, has alleged that he was wrongfully searched for illicit drugs at the North East New Mexico Detention Facility, resulting in physical and emotional injury.

Martinez Report

The court may order defendants in a case brought by a prisoner proceeding *pro se* to submit a special report (Martinez report) to investigate the incident or incidents which form the basis for plaintiff's lawsuit. Martinez v. Aaron, 570 F.2d 317, 320 (10th Cir. 1978). The Tenth Circuit has authorized the district court to require a Martinez report to develop a factual or legal basis for determining whether an inmate plaintiff has a meritorious claim. See, e.g., Gee v. Estes, 829 F.2d 1005, 1007 (10th Cir. 1987).

Accordingly, to aid the Court in evaluating Plaintiff's claims in this case, Defendants shall prepare a Martinez report which shall address the following matters:

1. All documentation relating to the incident alleged in Plaintiff's complaint regarding various levels of searches for illicit drugs. Information should include, but not be limited to:
  - a. identity of corrections department staff and other persons involved in the incident;

- b. incident reports, staff reports, any videotapes or photographs of the incidents or the area where the incidents occurred around the time it occurred, and any other relevant materials including information in the possession of Defendants that led to the search of Plaintiff;
  - c. use of force reports, if applicable;
2. Documentation related to any grievances which Plaintiff filed in connection with the aforementioned incidents. Defendants should include a copy of the grievance petition, and any administrative response or action taken.

Defendants' Martinez report shall address each point in numbered paragraphs. Documents in support of the report may be submitted simultaneously with the report, but the submission of documents alone, or documents submitted with an index but without an accompanying report, shall not be considered to be in compliance with this order. Defendants shall submit affidavits in support of the report if necessary.

The report shall be filed on or before July 20, 2012. Defendants shall serve a copy of the report and documentation on Plaintiff, who shall have twenty one days from the date of service to respond. Motions for extensions of time shall be given due consideration. **The parties are hereby given notice that the report may be used in deciding whether to grant summary judgment on Plaintiff's claims; the parties should submit whatever materials they consider relevant to Plaintiff's claims. See *Hall v. Bellmon*, 935 F.2d 1106 (10th Cir. 1991).**

**IT IS SO ORDERED.**

  

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W. DANIEL SCHNEIDER  
UNITED STATES MAGISTRATE JUDGE